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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

BY HAND

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

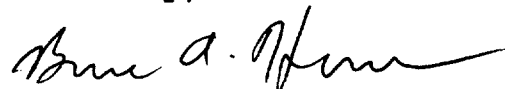
Re: Rate Regulation
MM Docket No. 93-215

Dear Mr. Caton:

Please find attached on behalf of the National Association of Telecommunications Officers and Advisors and the City of New York an original and eleven copies of the Comments of the National Association of Telecommunications Officers and Advisors and the City of New York in the above-referenced proceeding.

Any questions regarding the submission should be referred to the undersigned.

Sincerely,



Bruce A. Henoch

Attachment

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)

Implementation of Sections)
of the Cable Television)
Consumer Protection and)
Competition Act of 1992)

Rate Regulation)

MM Docket No. 93-215

TO: The Commission

COMMENTS OF THE
NATIONAL ASSOCIATION OF TELECOMMUNICATIONS
OFFICERS AND ADVISORS AND THE
CITY OF NEW YORK

The National Association of Telecommunications
Officers and Advisors and the City of New York (together,
the "Local Governments") submit these Comments in the
above-captioned proceeding.

I. INTRODUCTION

On March 30, 1994, the Federal Communications
Commission ("FCC" or "Commission") released a Report and
Order and Further Notice of Proposed Rulemaking in this
proceeding to solicit comments on a number of issues
relating to the Commission's implementation of rules
governing cost-of-service showings by cable operators.¹

¹ In re Implementation of Sections of the Cable Television
[Footnote continued on next page]

The Local Governments generally support the rules adopted by the Commission in this proceeding, and have comments on only one area, the proposal to implement an Upgrade Incentive Plan for cable operators. Local Governments urge the Commission to ensure that such a plan does not adversely affect the quality of services and programming offered on regulated tiers and does not result in rate increases on regulated tiers.

II. DISCUSSION

The Commission has proposed in the FNPRM to implement on an experimental, case-by-case basis, an Upgrade Incentive Plan that will "provide greater assurance of reasonable, stable rates to customers for existing services, while also generating profit incentives to operators to upgrade their systems in cost-effective ways that will benefit subscribers." FNPRM at ¶ 324. According to the Commission, operators will be given "substantial rate flexibility for the new services and capabilities they introduce." Id.

Local Governments urge the Commission to avoid implementing an Upgrade Incentive Plan that will result in rate increases and cause the quality of service on

[Footnote continued from previous page]
Consumer Protection and Competition Act of 1992, Rate Regulation, FCC 94-39 (adopted February 22, 1994) (Report and Order and Further Notice of Proposed Rulemaking) ("FNPRM").

regulated tiers to suffer. It is possible, as the Commission recognized in the FNPRM, that operators might try to "game" the rules by switching programming from current tiers or by "adulterating" the products or services received by the customer. For example, the operator may attempt to create "new" tiers by skimming channels from existing tiers. See FNPRM at ¶ 327. Similarly, the Commission should ensure that operators are not able, through the Upgrade Incentive Plan, to evade the Commission's rate regulation structure and improperly raise rates on regulated tiers. For example, operators should not be able to pass along costs of additional services or upgrades to basic subscribers unless all subscribers benefit from such services or upgrades.²

III. CONCLUSION

For the reasons stated above, the Local Governments are not opposed to the adoption of an Upgrade Incentive Plan so long as the Commission adopts rules to ensure that such a plan would in no way result in diminution of service or increased rates on regulated tiers.

² See, e.g., Comments of the National Association of Telecommunications Officers and Advisors, the National League of Cities, the United States Conference of Mayors, and the National Association of Counties, in MM Docket No. 93-215 (filed August 25, 1993), at 10-11.

Respectfully submitted,

Norman M. Sinel (BAH)

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Dated: July 1, 1994